

CYBERSPACE COMMITTEE MEETING

December 13, 2007

MINUTES

At the December 13, 2007, Maureen Young gave a presentation on recent developments in privacy, financial service laws and gaming laws. The remainder of the meeting was to discuss the progress of the subcommittees.

SUBCOMMITTEE ACTIVITIES

- The ECommerce / Privacy group met is proposing to create a privacy website. We noted that this effort would be redundant with current efforts from the Website group.
- The Legislative committee is completing the draft of the Cyberspace Law Primer, to be provided to the California State legislators.

MAUREEN YOUNG PRESENTATION

Maureen Young provided a summary of the new FCRA regulations concerning Red Flags for Identity Theft, and Affiliate Marketing, and regulations concerning Internet Gambling on the Internet.

FCRA Red Flags for Identity Theft and for Correcting Address Discrepancies

The regulations and guidelines require financial institutions and creditors to implement a written identity theft prevention program.

The regulation requires card issuers to assess the validity of change of address requests before issuing additional or replacement debit or credit cards.

The regulation requires users of consumer reports to reasonably verify the identity of the subject of a consumer report in the event that the user receives a notice of address discrepancy from the consumer reporting agency,

The guidelines are intended to assist financial institutions in implementing the regulations. Supplement A to the guidelines contain a list of 26 "red flags" that financial institutions and creditors may consider incorporating into their identity theft prevention programs.

The regulations and guidelines are currently effective with mandatory compliance required by November 1, 2008.

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FCRA Affiliate Marketing

Financial institutions cannot share information with third parties for marketing purposes unless customer is given an ability to opt-out, except if there is a pre-existing business relationship

A "Business relationship" exists if the institution has provided an account to an individual, or if the individual has purchased or rented or leased something from the organization within last 18 months, or if the individual has made a request for info within the last 3 months.

Opt out notice has to include key information, name of company, affiliates that are covered by the notice, provide information about the contemplated uses of the personal information, state that the consumer can elect to opt-out to some or all of the solicitations, and that the opt-out is good for 5 years.

Opt-out has to be a reasonable and simple method, depending on the circumstances.

Internet Gambling

The Internet Gambling statute was adopted in 2006. The law prohibits the use of the US payment system to process the Internet gambling transactions.

The proposed regulations would require financial services companies subject to US jurisdiction that participate in any of the five types of payments -- ACH, card payments, check collection, money transmission or wire transfers -- to implement policies and procedures that are "reasonably designed" to prevent or prohibit the processing of Internet gambling transactions. The proposed regulations contain limited exemptions for situations where identification and blocking of Internet gambling payments may not be technologically feasible for some participants in the payment systems. Although the proposed regulations do not regulate institutions or transactions outside the United States (which may encourage illegal gambling business to increasingly move offshore), the payment industry still has certain diligence obligations with respect to not allowing offshore actors to use the US payment system to facilitate illegal gambling. The scope of businesses that constitute "illegal gambling" is not listed or well defined.

The regulations provide examples of policies and procedures. If payment provider adopts the example policies and procedures in essentially the form proposed, it has a safe harbor in that it will be deemed in compliance with the regulations. .

NEXT MEETING

The next meeting of the Cyberspace Committee will take place by phone on January 10, 2008.